

Opinion No. 18

STATE VOCATIONAL SCHOOL FOR GIRLS; Commitment; duty of school to accept girls legally committed—STATE INSTITUTIONS; Inmates; assignment of custody and control—Sections 80-902, 80-903, 80-918 and 80-919, Revised Codes of Montana, 1947

Held: The State Vocational School for Girls must accept all girls legally committed to it by a district court or judge.

July 9, 1959

Miss Harriet Miller, Secretary
State Board of Education
Capitol Building
Helena, Montana

Dear Miss Miller:

You have requested my opinion whether the State Vocational School for Girls must accept pregnant or mentally deficient girls.

The act authorizing the creation of the State Vocational School for Girls specifically states the purpose of the institution. Section 80-902, RCM, 1947, provides:

"Said school is to be for the care, education, training, and safekeeping of girls between the ages of eight and twenty-one years, who are legally committed thereto by a court of record."

There is no question that the purpose of the institution is both educational and corrective, and as a corrective institution the principal of the school is commanded to accept all girls legally committed to it. Section 80-903, RCM, 1947, provides:

"It shall (be) the **duty** of the presiding officer of such school to receive, to the extent of the capacity of the institution, **all girls committed to its care under the provisions of this act**, and to keep the same until they arrive at the age of twenty-one years, or until they are discharged by law, or paroled under the rules of said school." (Emphasis supplied)

Section 80-918, RCM, 1947, provides the only means of commitment to the state vocational school for girls:

"When **any girl** . . . shall, in any court of record be found guilty of any crime except murder or manslaughter, or if for want of proper parental care is growing up as a mendicant, vagrant, or delinquent, and complaint thereof is properly made and sustained by the evidence, **the court or judge may, if in his opinion the accused is a proper subject therefor** . . . cause an order to be entered for such girl to be sent to the state vocational school for girls, in pursuance of the provisions of this act . . ." (Emphasis supplied)

Section 80-919, RCM, 1947, provides for a hearing before commitment and further states:

". . . and if, upon such examination or hearing, **such judge shall be satisfied that the girl is a fit subject for said vocational school for girls**, he may commit her to said school by warrant.

"No girl shall be committed to said school who is subject to epileptic fits, and she must be possessed of that degree of mental and bodily health which would render her a fit subject for the training of said school.

"It shall be the duty of the court or judge committing any such girl to cause her to be examined by a physician, . . . who shall certify to the above facts, which certificate shall be forwarded to said vocational school for girls with the commitment." (Emphasis supplied)

At the hearing provided for by Section 80-919, *supra*, the court examines the subject's mental and physical condition. With the excep-

tion of girls subject to epileptic fits, all girls determined by the court to have a sufficient degree of mental and physical health to make them fit subjects for training must be admitted to the school. The vocational school administrators have no authority to make an independent determination regarding a girl's fitness or to refuse admission of a girl committed to their care.

It is therefore my opinion that the state vocational school for girls must accept all girls legally committed to it by a district court or judge.

Very truly yours,
FORREST H. ANDERSON
Attorney General